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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,053	12/30/2003	Martin J. Dowling	I-2-0574US	7396

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VOLPE AND KOENIG, P.C.  
DEPT. ICC  
UNITED PLAZA, SUITE 1600  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103

EXAMINER

GARY, ERIKA A

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/749,053

Applicant(s)

DOWLING, MARTIN J.

Examiner

Erika A. Gary

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 6 are objected to because of the following informalities: Claims 3 and 6 should depend from claims 2 and 5 respectively to provide antecedent basis for "the received signal strength"; OR "the received signal strength" should be "the received signals". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Garceran et al., US Patent Number 6,522,888 (hereinafter Garceran).

Regarding claims 1 and 4, Garceran discloses a mobile wireless monitoring device comprising: an antenna for receiving signals from a monitored source; a channel quality measurement device configured, to measure an uncompensated channel quality of the received signals; a location determining device for determining the geographic

Art Unit: 2617

location of the mobile wireless monitoring device; and a processor, in communication with the location determining device and the channel quality measuring device, the processor configured to receive and store the uncompensated channel quality measurements and a location for the uncompensated channel quality measurements using the determined locations [fig. 4; col. 2: lines 7-42; col. 3: lines 15-32; col. 6: lines 32-58]

Regarding claims 2 and 5, Garceran discloses the channel quality measurements include received signal strength, interference and Doppler shift [col. 4: lines 8-20]

Regarding claims 3 and 6, Garceran suggests the mobile wireless monitoring device does not utilize outer loop power control when measuring the received signal strength [col. 4: lines 15-20].

#### ***Allowable Subject Matter***

4. Claim 17 is allowed. Prior art has not been found that suggests or renders obvious the disclosed mobile wireless monitoring device comprising a channel quality measurement device configured to measure the received signal code power of the primary common control physical channel, the interference signal code power, and the path loss for the primary common control physical channel of the received signals.

#### ***Response to Arguments***

5. Applicant's arguments filed June 22, 2006 have been fully considered but they are not persuasive.

Regarding claims 1 and 4, Applicant argues that Garceran does not teach a "channel quality measurement device for measuring an uncompensated channel quality of received signals. The Examiner respectfully disagrees as Garceran clearly teaches this limitation. Garceran teaches "signal quality measurements....made at the wireless unit" [col. 3: lines 15-22]. Regarding claims 3 and 6, Applicant argues that the mobile wireless monitoring device does not use outer loop power control when measuring the received signal strength. Since Garceran does not disclose that it does use outer loop power control, it is suggested that it does not use it. Therefore, Garceran reads on the claimed limitation. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that disabling power control provides an accurate representation of the actual SIR and a clear indication of the relative change in SIR) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

Art Unit: 2617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on 571-272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG  
July 31, 2006

  
ERIKA A. GARY  
PRIMARY EXAMINER